

REMARKS

Claims 1-8 have been examined and have been rejected under 35 U.S.C. § 103(a).

I. Rejections under 35 U.S.C. § 103(a) in view of U.S. Patent No. 6,092,113 to Maeshima (“Maeshima”) and Applicant’s alleged Admitted Prior Art (“alleged AAPA”).

The Examiner has rejected claims 1, 4, 5, 6, 7 and 8 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Maeshima and the alleged AAPA.

A. Claim 1

Applicant submits that claim 1 is patentable over the cited reference. For example, claim 1 recites that, “the step of receiving connection requests, the step of verifying the possibility of setting up the connections, and the step of updating said database are preformed by a scheduler program which spans a services management layer and a network management layer.”

In the January 28, 2005 and June 17, 2005 Amendments, Applicant argued that Maeshima merely discloses that routers (e.g. 300A, 300, and 300B) on an IP tunnel 101 transmit and receive packets which correspond to the “[contents] of a reservation [request];” (Col. 5, lines 47-48). Further, Applicant noted that even if it were assumed *arguendo* that the information contained in the packet also corresponds to a designated date and time for reserving bandwidth on the IP tunnel 101, since the packet is transmitted and received between the router at the start point of the IP tunnel 101 (e.g. 300A) and the router at the end point of the IP tunnel 101, (e.g. 300B) Maeshima simply does not teach that the step of receiving connection requests is

performed by a scheduler program which spans a services management layer and a network management layer as claimed.

In the current Office Action, the Examiner acknowledges that Maeshima does not disclose the scheduler program, but contends that the alleged AAPA does. Applicant submits, however, that the portion cited by the Examiner as the alleged “AAPA” is in fact, not prior art. Rather, the cited portion forms part of the present invention. In particular, the Examiner refers to page 4, lines 24-26, Figure 1 and the PGA depicted in Figure 1, as being prior art. Lines 24-26 of page 4 discloses that Figure 1 depicts a prior art three layer management system. However, the cited portion *also* discloses that Figure 1 indicates, “the location at which the invention is implemented.” (emphasis added) On page 3, lines 1-9, the specification further discloses that the “invention” is located at the interface of the NML and the SML as shown in Figure 1. The PGA, which is labeled in Figure 1, is specifically described in the non-limiting embodiment on page 5, lines 7-8. By use of the term “invention” Applicant submits that the specification *clearly* indicates that the portion cited in Figure 1 (i.e., the PGA) is part of the present “invention,” and not the prior art.

Accordingly, although Figure 1 depicts layers EML, NML and SML, which are known in the art, the figure also illustrates, as set forth in the specification, where a feature of the present invention relates to the known system. Thus, the PGA does not constitute prior art, and therefore, does not cure the deficient teachings of Maeshima.

Based on the foregoing, Applicant submits that claim 1 is patentable, and respectfully requests the Examiner to reconsider and withdraw the rejection.

B. Claim 7

Claim 7 recites, “wherein the means for receiving connection requests spans a services management layer and a network management layer.” Accordingly, Applicant submits that claim 7 is patentable for at least analogous reasons as set forth above for claim 1.

C. Claims 4, 5, 6 and 8

Since claims 4, 5, 6 and 8 are dependent upon one of claims 1 or 7, Applicant submits that claims 4, 5, 6 and 8 are patentable at least by virtue of their dependency.

II. Rejections under 35 U.S.C. § 103(a) in view of Maeshima, the alleged AAPA and U.S. Patent No. 6,115,382 to Abe (“Abe”)

The Examiner has rejected claims 2 and 3 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Maeshima, the alleged AAPA and Abe. However, since claims 2 and 3 are dependent upon claim 1, and Abe fails to cure the deficient teachings of Maeshima and the alleged AAPA, Applicant submits that claims 2 and 3 are patentable at least by virtue of their dependency.

RESPONSE UNDER 37 C.F.R. § 1.111
U.S. Application No.: 09/871,816

Attorney Docket No.: Q64768

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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